Flavored Tobacco Product Restriction Enforcement Guide

Developed by the Massachusetts Tobacco Cessation and Prevention Program

August 2017
Background

Importance of Language

Massachusetts Best Practices: Steps to Successful Enforcement of a Flavored Product Restriction

Step 1: Complete an Enforcement Plan Checklist
Step 2: Develop Resources
Step 3: Measure the Impact of the Enforcement Strategy

Conclusion

Appendices

Appendix A: Rationale for Flavored Product Restriction
Appendix B: Model Flavored Product Restriction Language and Definitions
Appendix C: Violations
Appendix D: Enforcement Plan Checklist
Appendix E: Template Letter to Retailers
Appendix F: Template Retailer Handout/FAQ
Appendix G: Sample Page of MAHB Guidance Flavored Product List
Appendix H: Retailer Flavored Product Survey

Acknowledgements
The Massachusetts Tobacco Cessation and Prevention Program would like to acknowledge Melissa Buenger (Chicago), Erin Boles-Welsh (Rhode Island) and Kevin Schroth (New York) for their input, knowledge and assistance throughout the passage and enforcement of Massachusetts’ policies.

This Guide and the associated enforcement tools were made possible with significant insight and assistance from MTCP-funded Board of Health programs along with the following trade associations:
Flavored Tobacco Product Restriction Enforcement Guide

Background

This guide was developed by The Massachusetts Department of Public Health’s Massachusetts Tobacco Cessation and Prevention Program (MTCP) based on the experience of local Massachusetts boards of health in enforcing municipal flavored tobacco product regulations. The model Flavored Tobacco Product Restriction (FTPR) used by boards of health prohibits the sale of all flavored tobacco products, including e-cigarettes, in retail establishments except in qualifying adult-only tobacconists and vape shops. The development of tools and resources and the diligent and successful enforcement of these ordinances and regulations were made possible with funding from the Centers for Disease Control and Prevention (CDC), and a state tobacco control infrastructure that has been in place for more than twenty years.

MTCP looked to other jurisdictions, including New York, Providence and Chicago, in considering how to guide local boards of health to enforce the FTPR and how to address enforcement issues faced in these cities. MTCP worked closely with its strong infrastructure of local board of health programs and trade associations—the Massachusetts Municipal Association (MMA), the Massachusetts Association of Health Boards (MAHB), and the Massachusetts Health Officers Association (MHOA)—and depended on the proactive nature of local boards of health in ensuring enforcement of these policies. The following may not be entirely replicable or applicable in every jurisdiction, but MTCP hopes this guide will provide some assistance to those attempting enforcement of a flavored product restriction or other complex point-of-sale policy.
Importance of Language

One key to sound enforcement is clear and strong regulatory language that allows for diligent enforcement and minimizes potential loopholes. Technical assistance providers at MAHB and MMA developed model regulatory language to be adopted by local boards of health, city councils or through town meetings, based on language passed by Providence, Rhode Island as a city ordinance. The Providence ordinance was litigated and upheld in the same federal circuit court where Massachusetts resides. Although court-tested in only two federal court districts (New York City’s ordinance was also upheld), this language provides a sound model that could be replicated nationally. The full rationale for adoption of a FTPR can be found in Appendix A, and the model definitions and language in Appendix B.

Specifically, the following are language considerations that should be made when adopting a flavored product restriction:

**Anti-Preemption**

If policymaking is at the state or county level, the regulatory language should be clear that the regulation does not preempt local decision makers from passing a similar or more stringent policy; this will ensure that enforcement can be done at a more granular level of government. For example, if a state law is passed prohibiting the sale of flavored products, a local town can pass the same restriction and enforce on a violation directly, instead of having to report violations to state government.

**Sample Language**

“Nothing in this section shall preempt or otherwise prevent a county or municipal agency, government or regulatory body from enacting and enforcing more stringent tobacco control measures.”

**Tobacco Product Definition**

The tobacco product definition in Appendix B is an attempt to include all current and future iterations of tobacco products in this restriction. This includes cigars, little cigars, blunt wraps, e-liquids and closed-end e-cigarettes regardless of nicotine content. The purpose of such a detailed definition is to close the foreseeable loopholes that exist for certain products at various levels of regulation, and to ensure that all flavored products would be subject to this restriction.

**Effective Date**

An effective date of at least 60 days after enactment is recommended to ensure enough time for retailer notice and education.
Exempting Adult-Only Stores

Massachusetts technical assistance providers and boards of health chose to exempt adult-only tobacco stores from the restriction. This was due to the court’s decision in Providence, which found it important that the ordinance was not an outright ban on the sale of flavored products in the city; adult users who wanted to purchase these products could go to a qualified adult-only tobacco retailer. Additionally, the rationale for the FTPR rests heavily on youth use and youth exposure to these products, so providing a venue for adults to seek these products does not undermine its purpose. However, the definition of an adult-only tobacco retailer should ensure that only true tobacconists and vape shops are allowed this exemption.

The model regulation language used by Massachusetts boards of health defines an adult-only tobacco retailer as an establishment that 1) is not required to possess a retail food permit, 2) whose primary purpose is to sell tobacco products and tobacco paraphernalia, and the sale of other products is merely incidental, and 3) prohibits entry of persons under the minimum legal sales age at all times. Some regulations, instead, require that a percentage of the establishment’s sales, usually a majority, be of tobacco products. This can result in significant effort and confusion to determine what percent of each store’s sales is tobacco. While local boards of health may differ on what products are “merely incidental,” the fact that the establishment may not hold a food sales permit offers more clarity and provides boards an opportunity to minimize what can be sold in these establishments without requesting business accountings.

Considering Menthol

The exclusion of menthol from the Providence flavored product ordinance was likely with the intent to mirror the Food and Drug Administration’s 2009 ban on the sale of flavored cigarettes. The FTPR language included in the model regulation considered by Massachusetts’ boards of health was based on Providence’s, and without the desire to spur an additional lawsuit, the policies do exclude menthol. However, as of the writing on this guide, at least one Massachusetts municipality is considering including menthol in their flavored product restriction and nationally, San Francisco and Oakland have passed ordinances including menthol. This will be an important inclusion going forward, and depending on the outcome of potential litigation, it should be considered as part of a flavored product restriction.

Penalties

Penalties for violation of the regulation should be concrete, enforceable and escalating. Inclusion of a tobacco sales license suspension as a penalty is recommended, as is a tolling period holding violators to higher penalties for multiple violations in set time periods. Whether penalties will be criminal or civil (non-criminal) also needs to be determined; this will be based on the agency or board that will be enforcing and what penalties are deemed appropriate. See Appendix C for sample penalty language.
Steps to Successful Enforcement of a Flavored Product Restriction

As of publication, 96 cities and towns (out of 351) in Massachusetts have a flavored product restriction in place. The first two went into effect in July 2014, and while attention was paid to promotion of the FTPR and legally sound language, enforcement was considered a major challenge. The infrastructure in Massachusetts allowed for enforcement agents in pilot towns to make several educational visits to retailers, and to work with their technical assistance provider, MAHB, to inform a guidance list of flavored products. The list included products that explicitly promoted that they were flavored and those that did not, but which, if sold, likely violated the FTPR. The field staff in these pilot municipalities also worked with MAHB to develop the guidance protocols and tools based on their experiences in the initial stages of enforcement. These guidance tools have been disseminated to boards of health throughout the state through training webinars, and have resulted in significant compliance by retailers and a commensurate reduction in the amount of flavored products being sold in the communities that have passed the FTPR.

Pages 5–7 provide an Enforcement Plan Checklist (Appendix D) that an enforcement agency can utilize to determine how they will enforce the FTPR to ensure retailer compliance, and the considerations that should be made. Pages 8–11 discuss the education and enforcement tools referenced in the Enforcement Plan Checklist; these guidance tools were provided to boards of health in Massachusetts as a template to assist them in their implementation and enforcement of a local flavored product restriction. Lastly, pages 12–13 describe the measures MTCP has utilized to determine whether retailers in selected communities are complying with the flavored product restriction, and the experience that enforcement agents have had with enforcement and compliance in municipalities with the FTPR.

**Step 1: Complete an Enforcement Plan Checklist**

After the FTPR is passed, the enforcement body has to decide how the restriction will be enforced. Largely, this will be based on availability of resources, though some actions are not resource-intensive but important in ensuring compliance with the FTPR. A formal or informal enforcement plan should be developed that addresses all items in the checklist below. Please see pages 8–11 for a template and in-depth discussion of the educational and enforcement tools.
1. What Products Violate the FTPR

☐ Only products labeled with a flavor OR

☐ Products both labeled with a flavor and those that are not labeled with a flavor but have been determined to be flavored ("concept flavors").

The overwhelming challenge faced by other jurisdictions has been determining which products violate the FTPR. While products with names like “Cherry” and “Vanilla” are promoting the fact that they contain a characterizing flavor, other products avoid the obvious distinction (intentionally or unintentionally) by forgoing a name that directly promotes a particular flavor; such products are referred to as “concept flavors.” The language in the FTPR, however, does not regulate how the product is labeled or promoted, but whether or not it has a characterizing flavor.

The enforcement plan needs to address whether the enforcement body will only issue tickets for products that indicate that they are flavored, or whether they will attempt to capture those “concept flavors”—for which the name of the product does not explicitly promote its flavorings, but for which there is information and evidence that the product has a characterizing flavor other than tobacco (or menthol, if that is exempted). For example: the enforcement agency may decide that it is too resource-intensive to train enforcers on the full flavored product list, so will only enforce on products like “Cherry” and “Vanilla” but not on concept flavor products like “Blue,” “Tropical Fusion” and “Purple Haze.”

The City of Chicago developed a list of hundreds of products identified as violating a flavored product restriction which could be used to establish a basis of products that enforcement agents can use to educate retailers so that they can be in compliance. However, given the uptick in sale of concept flavors, Massachusetts’ technical assistance providers began to develop a guidance list to inform boards of products that may violate their local FTPR. Through the dedicated work of field staff identifying and surveying products potentially in violation, as well as independent research conducted on these products, hundreds of products that were not distinctly labeled as a flavor were identified as likely in violation of the FTPR. This list is available on MAHB.org, and while non-exhaustive and non-determinative, can be used as a guidance resource for an enforcement agency. It is discussed in more detail on pages 10–11.
2. What resources and education will be available to enforcers and retailers?

- Training webinar or meeting
- Enforcement Timeline
- Guidance Flavored Product List available online?  □ Y □ N
- Template Letter explaining FTPR available online?  □ Y □ N
- Template Retailer Handout/FAQ available online?  □ Y □ N
- Other available online?  □ Y □ N

Clarity and communication as to which products the enforcement agency deems to be in violation of the regulation is essential to compliance and successful enforcement of the FTPR. The enforcement plan should clearly inform enforcers of an enforcement timeline, the products in violation and the enforcement options available to them (verbal warning, written warning, ticket, etc.), along with a copy of the enacted regulation.

In a roll-out of this restriction, webinars, protocols, handouts and online databases are a few of the resources that should be considered for both enforcers and retailers. Many of these guidance tools are attached as Appendices and can be altered depending on the particular circumstances of the state or local government, or how the enforcement agency operates.

3. What will agents do to educate retailers prior to the effective date of the FTPR?

- Mail Template Letter
- Mail copy of the FTPR
- Mail Guidance Flavored Product List
- Mail Template Retailer Handout/FAQ
- In-store educational visit to all retailers
- Group educational visit offered to all retailers

Compliance, not punishment, should be the goal of enforcement of any point-of-sale policy. Given the complexity of this regulation, it is important to provide retailers with the information and tools necessary to comply prior to the effective date. This will give retailers the opportunity to ask questions and gain an understanding of what products can no longer be sold in order to comply with this regulation.
4. Will agents conduct an educational visit after the FTPR is effective, but without the intent to ticket (grace period educational visit?)

☐ Y  ☐ N

If resources allow, an educational visit to a retailer after the effective date of the FTPR is beneficial to both the retailer and the enforcer. If the retailer is selling a product that is violating the FTPR it may be unintentional, and it allows them to get rid of that product without receiving a ticket. For the enforcer, presence in the store as an educator may facilitate a trusting relationship with the retailer and encourage future compliance, as well as allow the enforcer to understand the scope of compliance before enforcement begins.

5. When will agents begin ticketing for violations of the FTPR?

☐ 1-3 months after the effective date

☐ 3-6 months after the effective date

☐ 1-3 months after the grace period educational visit

In determining when enforcers should issue tickets, the enforcement agency should consider the scope of education and information that was provided to retailers. The decision to ticket a retailer at a particular time point may need to be re-evaluated. It may be more appropriate for enforcers to use verbal warnings instead of ticketing retailers who are obviously trying to comply with the new regulation after the grace period has passed.

6. If a ticket is appealed, what is the enforcement agency protocol to handle the appeal?

Who to contact if ticket is appealed:

___________________________________________

The appeals process will depend on a number of factors, importantly whether the regulation is criminal or non-criminal. Generally, it will follow the same procedures as the enforcement agency follows with other similar regulations. The enforcement agency should educate and inform the individual or department that would handle appeals of the regulation, and consider whether any external education of clerks or magistrates is necessary.
Step 2: Develop Resources

After the enforcement checklist and plan are complete, the enforcement agency will then need to develop or obtain those resources it deems necessary for enforcement. There are three major categories of resources: the Enforcement Timeline, Retailer Communications, and the Guidance Flavored Product List.

Resources

- **Enforcement Timeline**
- **Retailer Communications**
  - Letter to Retailers (Appendix E)
  - Handout/FAQ (Appendix F)
- **Guidance Flavored Product List**
  - Sample Page of MAHB Guidance Flavored Product List (Appendix G)

Enforcement Timeline

The Template Enforcement Timeline below lays out a potential timeline for enforcement and the steps that should be taken at each point. It communicates how and when tickets should be issued, what resources and information should be given to retailers and how to address the appeals process. As mentioned above, resources will need to be considered when adopting a protocol; this exact protocol should only be considered if resources allow. However, elements of this protocol can be incorporated regardless of funding.

<table>
<thead>
<tr>
<th>Prior to Effective Date</th>
<th>Effective Date</th>
<th>3 Months Later</th>
<th>6 Months Later</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Letter to Retailers</td>
<td>• Flavored Product List</td>
<td>• FAQ</td>
<td>• Educational Visit</td>
</tr>
<tr>
<td>• Educational Visit</td>
<td></td>
<td>Educational/Warning Visit</td>
<td>Enforcement Visit</td>
</tr>
</tbody>
</table>

Template Enforcement Timeline

The following model schedule provides a template to assist enforcement agents in when and how to use tools and resources to educate and enforce a flavored product restriction:

1) **Notification Letter:** After the flavor restriction is passed, send a letter informing all retailers in the municipality of all policies adopted. This can be done via email if you have the owners’ addresses. Enclose a copy of the Retailer Handout/FAQ and Guidance Flavored Product List.
2) **Post Enactment Educational Visit:** Once all letters have been sent, visit 100% of retailers (excluding approved adult-only establishments) as soon as possible.

- This visit is to inform the retailer of the following:
  - That a flavor restriction passed in their municipality and what the regulation says.
  - Which products they currently sell that will no longer be allowed under the regulation.
  - The effective date of the regulation. Give them a copy of the regulation, the Retailer Handout/FAQ and Guidance Flavored Product List, if they no longer have them.

- The goal of the visit is to encourage the retailer to begin selling down their current stock, and to have them notify their distributor and/or corporate office that these products should no longer be ordered.

- Explain that the Guidance Flavored Product List is non-exhaustive; even if a product is not on the list, it could still violate the FTPR (if it has a characterizing flavor) and a ticket could still be issued.

- Using examples of flavored products labeled as such and concept flavors, show the retailer products that will no longer be permissible after the regulation’s effective date.

3) **Post Effective-Date Visit:** Approximately one month after the regulation is in effect, visit 100% of retailers (excluding approved adult-only establishments). Although the regulation has become enforceable in the municipality, this visit should be for warning and educational purposes.

- If the retailer is still selling flavored products that are on the Guidance Flavored Product List:
  - Request to speak to the manager/owner or request that they be called. If you are unable to reach them, instruct the clerk to relay information to the manager/owner.
  - Again, go through the educational aspect of the first visit. Commend them on the products they have removed (if any) but let them know that they are still considered in violation due to particular products they are still offering.
  - Go through the regulation and Guidance Flavored Product List again, explaining that although a product’s label may not indicate it is flavored, this does not mean it complies with the regulation.
  - Let the retailer know that while you could enforce today, you will give them more time to come into compliance and that on the next visit you will ticket.
  - If they blame non-compliance on the corporate office, provide them with another copy of the regulation, Retailer Handout/FAQ, and the Guidance Flavored Product List that they may forward to corporate. Let them know it is their responsibility to comply and to stop selling flavored products.
4) **Enforcement Visit:** Three to six months after the effective date of the regulation, visit 100% of retailers or, if not feasible, 100% of retailers that were selling flavored products during the previous inspection. This should be a formal inspection for flavored products but can be done as part of a yearly inspection. If a violation is found, a ticket should be issued.

**Retailer Communications**

There are several retailer communication tools, referred to in the Enforcement Timeline, that can be adapted and disseminated with minimal cost. A letter explaining the FTPR (Appendix E), a Retailer Handout/FAQ (Appendix F), and a sample page of the Guidance Flavored Product List (Appendix G), are three tools which inform and help retailers comply with the restriction. Ideally these tools would be given to the retailer and explained in-person, but given a dearth of resources, these can be mailed to every retailer.

**Guidance Flavored Product List**

By far the most essential tool in achieving compliance with a flavored product restriction is identifying the products prohibited under the regulation and making it clear to both enforcers and retailers what those products are. A guidance flavored product list provides the retailer with clarity as to the products they may be ticketed on, and can assist them in product ordering. It also gives the enforcement agent specific guidance for educational visits and ticketing. A sample page of the MAHB Guidance Flavored Product List is attached as Appendix G, and the full list can be accessed at www.mahb.org by clicking on the link named “Tobacco Control.”
Updating the List

MAHB has updated their guidance list twice since 2014. List updates are necessary as the industry continuously adds and changes their flavored product offerings. Field staff can be essential in providing data and information on changes in the retail environment. If changes are made to your flavored product list, it is recommended that:

1. the full list is redistributed to retailers;
2. a separate list is created that indicates which products have been added; and
3. a grace period exist between when a product is placed on the list and when ticketing begins on those products.

Removing Products from the List

A retailer or their legal representative may appeal the inclusion of a particular product either formally or informally. If, in considering all relevant information provided by the retailer or representative on the characterizing flavor, including statements from the manufacturer, ingredient information provided and/or lab test results, along with a smell test and any other information gathered in placing that product on the list, the enforcement agency may decide to remove that product from the list. If this occurs, the product should be removed from the list, and all enforcers and retailers should be notified. Where this has occurred locally in Massachusetts, MAHB considers all information presented to it and to the local board of health, and if a product is removed, sends notification to all boards of health of the updated guidance.

Streamlining the List for Ease of Enforcement

Depending on which products the enforcement body determines it will issue tickets on, the list itself can become long and cumbersome. In order to assist enforcers, an abbreviated list with the most common flavored products sold in the region—especially the concept flavors—can help save time and ensure that the most ubiquitous flavored products are identified.
Step 3: Measure the Impact of the Enforcement Strategy

As part of its CDC grant, MTCP proposed to develop enforcement strategies and tools to assist local boards of health in achieving compliance with a Flavored Tobacco Product Restriction, and to analyze the impact of the regulation on the retail environment. To measure compliance with the FTPR, MTCP developed a retail survey that included questions on flavored product advertising and retailer compliance with the FTPR, as well as a full inventory of all flavored tobacco products sold. Given the complex nature of the restriction and its enforcement, support to all boards of health enforcing the FTPR was provided—from webinar enforcement training to support for legal issues and appeals. Following this, MTCP conducted an informal survey of boards of health that were enforcing a FTPR, regardless of whether they received dedicated funding from MTCP. The detailed results of both surveys are discussed below and show a high rate of retailer compliance with the FTPR with few issues of unpaid tickets or appeals.

Retailer Survey Results

The Retailer Flavored Product Survey, attached as Appendix H, was conducted in 461 stores in the cities of Boston and Attleboro prior to the effective date of the restriction, and 6 months after the effective date. This design was to measure the change in the retail environment before and after the FTPR was in place, and to determine whether retailers were complying with the restriction.

A preliminary analysis of these surveys shows that prior to the implementation of the flavored product restriction, 91% of retailers in Boston and 91% in Attleboro sold flavored tobacco products. After a roll out of the FTPR in those communities, which included the steps in the Template Enforcement Timeline on pages 8–10, only 23% of retailers in Attleboro and 13% in Boston were selling flavored tobacco products. Further, the total number of products sold drastically decreased, even by those retailers in violation of the restriction. At the 6 month follow-up, the average number of flavored tobacco products sold per store among those in violation in Attleboro decreased from 24 to 2, and in Boston, from 19 to 3. This indicates that retailers in violation of the FTPR had sold down and were attempting to comply.

% of Retailers Selling Flavored Tobacco Products*

<table>
<thead>
<tr>
<th></th>
<th>Boston (n=418)</th>
<th>Attleboro (n=43)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before FTPR</td>
<td>91%</td>
<td>91%</td>
</tr>
<tr>
<td>After FTPR</td>
<td>13%</td>
<td>23%</td>
</tr>
</tbody>
</table>

*excludes adult-only retailers
Enforcement Agent Feedback

An informal survey of enforcers was conducted through email to enforcement agents at varying stages of enforcement. These 19 enforcement agents had 46 cities in their purview with the FTPR in place.

- **10.9%** of those surveyed reported issuing **1 to 3 tickets for violation** of the restriction.
- **80%** of those who issued tickets reported that all tickets were paid on time, with no appeal.
- Enforcers reported that the dearth of ticketing was not due to lack of enforcement; **93%** of surveyed enforcers reported high retailer compliance with the FTPR.

In open ended questions about success, barriers and tools necessary for enforcement, several common themes emerged. The importance of in-person visits and providing the retailers with the Guidance Flavored Product List were two keys to successful implementation of the FTPR.

However, these successes were not without barriers. Many enforcers reported on the time consuming nature of the educational visits and follow-up, but did note that these visits were essential to compliance. Others found that distributors were instructing retailers they could sell products that were in violation, or that retailers were hiding products under counters but still selling them. Lastly, due to the ever-changing nature of the product landscape, several enforcers requested the guidance list be updated more often and have a set schedule for release. MTCP is considering this feedback and its technical assistance providers have given guidance where possible.

Keys to Success from Enforcers

“Handing out the flavor list and going through the inventory with each retailer prior to the implementation date was critical to the success of compliance.”

“By enforcing our new tobacco regulations even though there were violations, the end result was compliance. We were also able to form relationships with establishment owners to better educate them.”

“Compliance among retailers has been excellent, especially after they were given the list.”
Conclusion

For any point-of-sale tobacco restriction to achieve its intended public health goals, it must change the retail environment. Without retailer education and understanding of the FTPR, and diligent enforcement, it is unlikely the expected change will occur, especially with a complex policy. Utilizing guidance tools provided by the Massachusetts Tobacco Cessation and Prevention Program and the Massachusetts Association of Health Boards, local boards of health in Massachusetts have been able to employ education and enforcement strategies that have resulted in high compliance and thus, the intended effect of a decrease in the number of stores selling cheap, flavored tobacco products attractive to youth. Other states and municipalities enforcing a similar policy may find the template resources and tools useful in obtaining compliance.
Whereas 18.1 percent of current smokers aged <18 years reported that they usually directly purchased their cigarettes from stores (i.e. convenience store, supermarket, or discount store) or gas stations, and among 11th grade males this rate was nearly 30 percent;¹

Whereas cigars and cigarillos, can be sold in a single “dose”; enjoy a relatively low tax as compared to cigarettes; are available in fruit, candy and alcohol flavors; and are popular among youth;²

Whereas 59% of high school smokers in Massachusetts have tried flavored cigarettes or flavored cigars and 25.6% of them are current flavored tobacco product users; 95.1% of 12–17 year olds who smoked cigars reported smoking cigar brands that were flavored;³

Whereas data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes;⁴

Whereas the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy- and fruit-flavored cigarettes,⁵ largely because these flavored products were marketed to youth and young adults,⁶ and younger smokers were more likely to have tried these products than older smokers,⁷ neither federal nor Massachusetts laws restrict sales of flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and electronic devices and the nicotine solutions used in these devices;

Whereas the U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are considered to be “starter” products that help establish smoking habits that can lead to long-term addiction;⁸

Whereas the U.S. Surgeon General recognized in his 2014 report that a complementary strategy to assist in eradicating tobacco related death and disease is for local governments to ban categories of products from retail sale;⁹

Whereas the U.S. Centers for Disease Control and Prevention has reported that the current use of electronic cigarettes, a product sold in dozens of flavors that appeal to youth, among middle and high school students tripled from 2013 to 2014;¹⁰

Whereas 5.8% of Massachusetts youth currently use e-cigarettes and 15.9% have tried them;¹¹

Whereas the Massachusetts Supreme Judicial Court has held that “... [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means.”¹²

Now, therefore it is the intention of the [city/town] Board of Health to regulate the sale of tobacco products.
References

3. Massachusetts Department of Public Health, 2015 Massachusetts Youth Health Survey (MYHS); Delneve CD et al., Tob Control, March 2014: Preference for flavored cigar brands among youth, young adults and adults in the USA.
5. 21 U.S.C. § 387g.
11. Massachusetts Department of Public Health, 2015 Massachusetts Youth Health Survey (MYHS)
Model Flavored Product Restriction Language

Sale of Flavored Tobacco Products Prohibited:

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult-only retail tobacco stores.

Model Flavored Product Restriction Definitions

For the purpose of this regulation, the following words shall have the following meanings:

Adult-only retail tobacco store: An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the [city/town] Board of Health.

Blunt Wrap: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers regardless of any content.

Characterizing flavor: A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

Component part: Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

Constituent: Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

Distinguishable: Perceivable by either the sense of smell or taste.
**Flavored tobacco product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

**Person:** Any individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to, an owner, operator, manager, proprietor or person in charge of any establishment, business or retail store.

**Smoke Constituent:** Any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

**Smoking Bar:** An establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Mass. General Law Ch. 270, §22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. “Smoking bar” shall include, but not be limited to, those establishments that are commonly known as “cigar bars” and “hookah bars”.

**Tobacco Product:** Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, liquid nicotine, “e-liquids” or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. “Tobacco product” includes any component or part of a tobacco product. “Tobacco product” does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.
It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation. The violator shall receive:

a. In the case of a first violation, a fine of one hundred dollars ($100.00). [NOTE: Fines can be higher than these suggested fines; however, if a fine is over $300, non-criminal disposition cannot be used as an enforcement tool.]

b. In the case of a second violation within [24, 36] months of the date of the current violation, a fine of two hundred dollars ($200.00) and the Tobacco Product Sales Permit [shall/may] be suspended for seven (7) consecutive business days.

c. In the case of three or more violations within a [24, 36] month period, a fine of three hundred dollars ($300.00) and the Tobacco Product Sales Permit [shall/may] be suspended for thirty (30) consecutive business days.

d. In the case of four violations or repeated, egregious violations of this regulation within a [24, 36] month period, the Board of Health shall hold a hearing in accordance with subsection 4 of this section and may permanently revoke a Tobacco Product Sales Permit.
APPENDIX D:
Enforcement Plan Checklist

1. What Products Violate the FTPR
☐ Only products labeled with a flavor OR
☐ Products both labeled with a flavor and those that are not labeled with a flavor but have been determined to be flavored (“concept flavors”).

2. What resources and education will be available to enforcers and retailers?
☐ Training webinar or meeting
☐ Enforcement Timeline
☐ Guidance Flavored Product List available online? ☐ Y ☐ N
☐ Template Letter explaining FTPR available online? ☐ Y ☐ N
☐ Template Retailer Handout/FAQ available online? ☐ Y ☐ N
☐ Other available online? ☐ Y ☐ N

3. What will agents do to educate retailers prior to the effective date of the FTPR?
☐ Mail Template Letter
☐ Mail copy of the FTPR
☐ Mail Guidance Flavored Product List
☐ Mail Template Retailer Handout/FAQ
☐ In-store educational visit to all retailers
☐ Group educational visit offered to all retailers

4. Will agents conduct an educational visit after the FTPR is effective, but without the intent to ticket (grace period educational visit?)
☐ Y ☐ N
5. When will agents begin ticketing for violations of the FTPR?

☐ 1-3 months after the effective date

☐ 3-6 months after the effective date

☐ 1-3 months after the grace period educational visit

6. If a ticket is appealed, what is the enforcement agency protocol to handle the appeal?

Who to contact if ticket is appealed:

__________________________________________________________________________
Dear Tobacco Retailer,

This letter is to provide you with more information on XXX’s Flavored Product Regulation, which will go into effect on XXX.

The regulation says you cannot sell any tobacco product that has a flavor other than menthol or tobacco (unless you are an adult-only Retail Tobacco Store or Smoking Bar). Tobacco products that you may not sell if they are flavored include cigars, cigarillos, little cigars, shisha, e-cigarettes and e-liquids.

Attached is a guide to answer some questions about this regulation. Also attached is a list of products that the XXX Board of Health has adopted to help everyone understand the flavored product regulation. This list is guidance and does not include every flavored product. The XXX Board of Health has the right to ticket you for selling products that are not on the list if they violate the regulation. If the product has the taste or smell of a flavor, you may not sell that product—even if the package does not say it is flavored.

Discuss this regulation with your distributor and ask them to make sure that the products you buy from them do not have a flavor.

If you have any questions about the regulation or specific products that may or may not be sold, please contact the XXX Board of Health at PHONE NUMBER.

Sincerely,

Enforcement Agent
The XXX Board of Health has passed a Flavored Tobacco Product Restriction. Here are answers to questions you may have:

**What is the new regulation on flavored tobacco products?**
- No retailer can sell a flavored tobacco product unless the flavor is mint or menthol.
- The regulation does not apply if you are an adult-only Retail Tobacco Store or Smoking Bar. Read the regulation or call the XXX Board of Health to see if you qualify for either of these two exemptions.
- The penalties for violating this regulation are: [NOTE: your local regulation might have a different penalty structure.]
  - 1st violation = $100
  - 2nd violation = $200 and a 7-day suspension
  - 3rd+ violation = $300 and a 30-day suspension

**Why was this regulation passed?**
This regulation was passed to address youth use and exposure to flavored tobacco products. The tobacco industry has used attractive flavors and bold packaging to target young people. Reducing youth exposure to these products will counteract this targeting.

**What products are covered by this regulation?**
Flavored cigars, little cigars, chewing tobacco, pipe tobacco, snuff, shisha, blunt wraps, electronic cigarettes (e-cigarettes), electronic cigars, electronic pipes, electronic hookah, “e-juices” and other similar products that are not mint or menthol. (Note: Flavored cigarettes that are not menthol have been prohibited by Federal law since 2009.)

**What does it mean for a product to be flavored?**
A product is flavored if it has a taste or smell other than tobacco or mint - including, but not limited to, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage (cognac, rum), herb or spice (clove).

**May I continue to sell menthol and mint flavored products?**
Yes. Those products are excluded from this regulation.

**If a product label does not say the product is flavored, does that mean it is ok to sell?**
Maybe not. Some products do not list the flavor on the package, but still are flavored. The chart on the next page gives examples.
<table>
<thead>
<tr>
<th>Product Name / Photo</th>
<th>Does the product label indicate it has a flavor?</th>
<th>May I sell?</th>
<th>Why/Why not?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Game Pineapple Cigarillo</td>
<td>Yes</td>
<td>No</td>
<td>Has a taste or aroma other than mint, menthol or tobacco</td>
</tr>
<tr>
<td>Show Ba Boom Cigarillos</td>
<td>No</td>
<td>No</td>
<td>Has a taste or aroma other than mint, menthol or tobacco</td>
</tr>
<tr>
<td>Black &amp; Mild Jazz Cigarillos</td>
<td>No</td>
<td>No</td>
<td>Has a taste or aroma other than mint, menthol or tobacco</td>
</tr>
<tr>
<td>Black &amp; Mild Mild Cigarillos</td>
<td>No</td>
<td>Yes</td>
<td>Does not have a taste or aroma other than mint, menthol or tobacco</td>
</tr>
</tbody>
</table>
How do I know if a product is flavored?
Your distributor can tell you. Tell them that you must follow this regulation and that you may not sell any flavored products other than mint or menthol. If they are unsure about a product, ask them to get this information from the manufacturer.

Is there a list of flavored tobacco products I cannot sell?
Attached is the flavored product list that the XXX board of health is using to help everyone understand the flavored product regulation. The list will be posted on the XXX board of health website and you will be notified when new products are added and the list is updated. However, this list is not exhaustive and does not include every flavored product on the market. This means that a fine could be issued for a product that is not on this list if the board of health determines it is a flavored product.

What if I want to sell a product that is not on this list, but I’m not sure if it is flavored?
Ask your distributor if the product is flavored. If they do not know, or you still think it may be flavored, contact the XXX board of health at [PHONE NUMBER] or [EMAIL]. New products and products that are not on the flavored product list can still be a violation of the flavored tobacco product regulation. Before you buy the product from your distributor, you may want to contact the board of health to confirm that the product will not be in violation of the regulation.
**APPENDIX G:**
Sample Page of MAHB Guidance Flavored Product List

<table>
<thead>
<tr>
<th>PRODUCT TYPE</th>
<th>BRAND</th>
<th>NAME</th>
<th>DATE ADDED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>1839</td>
<td>BLACKBERRY</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>1839</td>
<td>CHERRY</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>1839</td>
<td>VANILLA</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>1882</td>
<td>BOURBON</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>1882</td>
<td>HONEY BERRY</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>1882</td>
<td>WHITE GRAPE</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>38 SPECIAL</td>
<td>CHERRY</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>38 SPECIAL</td>
<td>GRAPE</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>38 SPECIAL</td>
<td>PEACH</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>38 SPECIAL</td>
<td>PINEAPPLE</td>
<td>1/5/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>38 SPECIAL</td>
<td>VANILLA</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>4 KINGS</td>
<td>BANANA SPLIT</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>4 KINGS</td>
<td>FRENCH VANILLA</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>4 KINGS</td>
<td>GRAPE</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>4 KINGS</td>
<td>MANGO</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>4 KINGS</td>
<td>MINT CHOCOLATE CHIP</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>4 KINGS</td>
<td>NAPA GRAPE</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>4 KINGS</td>
<td>PINA COLADA</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>4 KINGS</td>
<td>PUMPKIN SPICE</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>4 KINGS</td>
<td>STRAWBERRY CHEESECAKE</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>4 KINGS</td>
<td>SWEET DELICIOUS</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>4 KINGS</td>
<td>WATERMELON</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>ACID</td>
<td>BLONDIE</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>ACID</td>
<td>BLUE</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>ACID</td>
<td>GREEN</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>ACID</td>
<td>RED</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>AL CAPONE</td>
<td>COGNAC</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>AL CAPONE</td>
<td>JAMAICAN BLAZE</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>AL CAPONE</td>
<td>RUM</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>AMERICAN MADE</td>
<td>BLACK CHERRY</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>AMERICAN MADE</td>
<td>SWEET PEACH</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>AMERICAN MADE</td>
<td>TROPICAL COCONUT</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>AMERICAN MADE</td>
<td>VANILLA</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>ANTONIO Y CLEOPATRA GRENADIER</td>
<td>HONEY</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>ANTONIO Y CLEOPATRA WISE GUYS</td>
<td>COGNAC</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>ANTONIO Y CLEOPATRA WISE GUYS</td>
<td>HONEY BERRY</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>ANTONIO Y CLEOPATRA WISE GUYS</td>
<td>IRISH CREAM</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>AVANTI</td>
<td>ANISETTE</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BACKWOODS</td>
<td>BANANA</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BACKWOODS</td>
<td>DARK STOUT</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BACKWOODS</td>
<td>GRAPE</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BACKWOODS</td>
<td>HONEY</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BACKWOODS</td>
<td>HONEY BERRY</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BACKWOODS</td>
<td>HONEY BOURBON</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BACKWOODS</td>
<td>JAVA FUSION</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BACKWOODS</td>
<td>VANILLA</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BACKWOODS</td>
<td>WILD RUM</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BALLERS CHOICE</td>
<td>BLUE MAGIC</td>
<td>8/17/16</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BALLERS CHOICE</td>
<td>GRAPE</td>
<td>10/1/15</td>
</tr>
<tr>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>BALLERS CHOICE</td>
<td>TEQUILA LIME</td>
<td>10/1/15</td>
</tr>
</tbody>
</table>
**APPENDIX H:**
Retailer Flavored Product Survey

**A. Flavored Product Advertising (Check all that apply)**
- □ No ads anywhere
- □ Ads outside
- □ Ads inside

**B. Inventory Assessment**
- □ Store does not sell flavored products
  1. Did store previously sell flavored products?
     - □ YES
     - □ NO
     - □ DON'T KNOW
  2. If YES, how did the retailer eliminate existing flavored products?
     - □ Sold down stock (please indicate # of Days ________)
     - □ Returned to Distributor/Transferred to another store
     - □ Don't Know

**If store is not selling flavored products, skip to Part C**

- □ Store sells products designated OR undesignated as flavor (e.g. Strawberry, Grape, Jazz, Blue, etc.)

**STEP 1:** Go to attached Flavored Product List and check off ALL flavored products sold at this establishment.

The list is organized:
- **Blue** = Cigars/Cigarillos/Blunt Wraps
- **Green** = E-Cigarettes/Liquid Nicotine
- **Yellow** = Smokeless/Dissolvable
  - Pipe Tobacco
  - Hookah/Shisha

**STEP 2:** Go to the last sheet in this packet and complete table for all products you believe are flavored but NOT on the Flavored Product List.

Please include all products you believe are flavored, whether or not the product is designated a flavor.

- **Designated flavor:** Peach, blackberry, pina colada
- **Undesignated flavor:** Island Bash, Blue breeze

**C. How Many Activities Done PRIOR to this Visit?**
- □ # of Letters Sent
- □ # of Educational Visits
- □ # of Written Warnings
- □ # of Fines
- □ # of Retailer handouts
- □ # of FPL distributed

**E. General Activities Completed During Visit**
(Check all that apply)
- □ Gave copy of regulation and provided explanation
- □ Gave copy of retailer handout and FPL
- □ Answered questions from retailers
- □ Showed retailer product(s) in violation
- □ Took photos of product(s) in violation/suspected
- □ Purchased suspected flavored products not on FPL
- □ None of the above
- □ Others _______________________________________

**F. Barriers You Experienced During Visit**
(Check all that apply)
- □ Retailer did not speak English
- □ Retailer/clerk not knowledgeable of products
- □ Retailer/clerk unwilling to sell me products
- □ Manager/Owner Unavailable
- □ None
- □ Others _______________________________________

Establishment:
Employee Name:
Employee Title: □ Owner □ Manager
□ Supervisor □ Clerk
Unable to Complete: □ Out of Business
□ Closed
□ Refused
□ Not Selling Tobacco
□ Other _____________________
<table>
<thead>
<tr>
<th>#</th>
<th>Type of Product</th>
<th>Brand</th>
<th>Name</th>
<th>Is product designated as a flavor (Yes/No)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example</td>
<td>Cigar/Cigarillo/Blunt Wrap</td>
<td>Phillies</td>
<td>Passionfruit</td>
<td>Yes</td>
</tr>
<tr>
<td>Example</td>
<td>E-Cig/Nicotine Liquid</td>
<td>Starbuzz</td>
<td>Code54</td>
<td>No</td>
</tr>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>16</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>22</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>